

1 **Matthew S. Hale, Esq.**
2 **HALE & ASSOCIATES**
3 **Calif. State Bar No. 136690**
4 **45 Rivermont Drive**
5 **Newport News, VA 23601**

6 **Mailing Address:**
7 **P.O. Box 1951**
8 **Newport News, VA 23601**

9 **Telephone No. (757) 596-1143**
10 **E-Mail: matthale@verizon.net**

11 **Attorney for Plaintiffs, DAVID J. LEE and**
12 **DANIEL R. LLOYD**

13 **UNITED STATES DISTRICT COURT**
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

15 **DAVID J. LEE and DANIEL R. LLOYD,**
16 **as individuals and, on behalf of others**
17 **similarly situated,**

18 **Plaintiffs,**

19 **vs.**

20 **CHASE MANHATTAN BANK U.S.A.,**
21 **N.A., a Delaware corporation, CHASE**
22 **MANHATTAN BANK U.S.A., N.A. d.b.a.**
23 **CHASE BANK U.S.A., N.A., JPMORGAN**
24 **CHASE & CO., a Delaware corporation;**
25 **and DOES 1, through 100, inclusive,**

Defendants.

Case No.: C 07-4732 MJJ

DECLARATION OF MATTHEW S.
HALE, FILED IN OPPOSITION TO
DEFENDANTS' ADMINISTRATIVE
MOTION FOR CONTINUANCE OF
THE HEARING ON THE MOTION TO
DISMISS CURRENTLY SET FOR
DECEMBER 11, 2007

I, Matthew S. Hale, declare and say:

1. I am an attorney licensed to practice in California and before this Court. In that capacity, I serve as lead counsel for Plaintiffs in this action and am personally familiar with the documents filed therein. If called upon to testify, I would and could competently testify to the matters set forth herein.

2. On or about November 26, 2007, I received an e-mail from Stephen J. Newman, the attorney for Defendants in this action, requesting that I agree to continue the hearing on Defendants' Motion to Dismiss (which had just been changed by this Court from December 4, 2007 to December 11, 2007). No reason other than the purported existence of some undesignated "conflict" was given by him. By responding e-mail, I advised Mr. Newman that I would not agree to that further continuance because I was going to be in San Francisco on that date since I am going to attend a Scheduling Conference before Judge Patel on December 10, 2007 in another matter.

3. Upon my receipt of the Defendants' Administrative Motion for Continuance, I was told for the first time that the purported "conflict" was that Mr. Newman and Julia Strickland, both of whom are listed as counsel in this matter, "will be in New York City on December 10, 2007 for oral argument before the Court of Appeals for the Second Circuit in another matter and for subsequent client meetings." Defendants' Memorandum at 2:18-2; Affidavit of Steven J. Newman, ¶ 3. The case upon which Mr. Newman's and Ms. Strickland's purported "oral argument" on September 10, 2007 is to occur is encaptioned In re. American Express Merchant Litigation, Case No. 06-1871 (2d Cir.).

4. I have accessed PACER and the complete docket of the Second Circuit Court of Appeal in In re American Express Merchant Litigation, Case No. 06-1871 (2d Cir.). Counsel for the

1 American Express defendants listed in the docket is Bruce H. Schneider of the New York office
2 of Stroock, & Stroock & Lavan. Neither Mr. Newman nor Ms. Strickland is listed in the docket
3 as counsel in the matter.

4 5. In my prior litigation experience with Stroock & Stroock & Lavan, which has included
5 numerous hearings on behalf of their American Express clients, I have never seen more than one
6 attorney with that firm attend and participate in any oral argument.

7 I hereby swear under penalty of perjury that the foregoing is true and correct and that this
8 Declaration was signed this 29th day of November 2007 in Burlingame, California.

9
10 /s/
11

12 _____
Matthew S. Hale
13
14
15
16
17
18
19
20
21
22
23
24
25

Proof of Service

On Friday, November 30, 2007, I served copies of the Plaintiffs' Opposition to Defendants' Administrative Motion of Continuance of the Hearing on the Motion to Dismiss Currently set for December 11, 2007, and the Declaration of Matthew S. Hale, filed in support thereof. Service was personally effectuated upon defense counsel Stephen J. Newman of the law firm of Stroock & Stroock & Lavan on the above referenced date in courtroom Number 8 of the United States' courthouse in San Francisco.

I declare that the foregoing is true and correct, under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Dated: November 30, 2007

/s/
By: _____
Matthew S. Hale, Esq.
Counsel for Plaintiffs